

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SALVATORE SABBATINO

Application No. 10/809,298



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on May 11, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

EXAMINER'S ANSWER

On February 26, 2007, an Examiner's Answer was mailed. On page 2, under the heading "Status of Claims" the examiner stated that "The Summary of claimed subject matter contained in the brief is incorrect . . ." However, there is no indication that the Appellants responded to the Examiner's Answer.

Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) notify applicants to file a paper providing a summary of the claimed subject matter as required by 37 CFR § 41.37(c)(1)(v);
- 2) consider the paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v); and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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